

UNITED STATES DISTRICT COURT FOR THE  
SOUTHERN DISTRICT OF NEW YORK

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J & J SPORTS PRODUCTIONS, INC.,

Plaintiff,

Civil Action No.:  
18-CV-2923(KMK)

-against-

**AFFIRMATION**

DAWN M. HERSHKO, individually and d/b/a  
BRICKHOUSE FOOD & DRINK; ITZHAK  
HERSHKO, individually and d/b/a BRICKHOUSE  
FOOD & DRINK and BRICKHOUSE FOOD LLC, an  
unknown business entity d/b/a BRICKHOUSE FOOD  
& DRINK,

Defendants.

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Eric T. Kolle, an attorney admitted to practice law in Federal Court hereby affirms under  
the penalties of perjury:

1. I am an associate of the law firm of Rogers, Habas & Eisen, P.C. formerly known  
as Rogers, Habas, Verrilli & Eisen, P.C. ("RH&E"), attorneys for Defendants, Dawn M.  
Hershko, individually and d/b/a Brickhouse Food & Drink, Itzhak Hershko, individually and  
d/b/a Brickhouse Food & Drink, and Brickhouse Food LLC d/b/a Brickhouse Food & Drink  
(collectively, the "Clients" or "Defendants") in the above-titled matter, and I am fully familiar  
with all the facts hereinafter set forth.

2. I submit this affirmation in support of the Motion seeking to be relieved as  
counsel for the Defendants; (i) granting its motion to withdraw as counsel; (ii) staying all  
proceedings in this action for a period of not less than thirty (30) days from entry of the Order on  
the motion sought herein to allow the Clients to retain substitute counsel (or appear pro se); and  
(iii) granting such other, further and different relief as this Court deems just, proper and  
equitable.

3. In or around May 2018, this office was retained as counsel for the Clients to represent them and filed a Notice of Appearance on May 24, 2018.

4. The Clients were served a Summons and Complaint for alleged violations of Title 47 U.S.C. §§ 605 and 553. (A copy of the Summons and Complaint is annexed hereto as Exhibit “1”).

5. Since that time, this office has expended significant time and effort providing legal services to the Clients in the above-titled matter, including but not limited to, filing an Answer on or about June 14, 2018. (A copy of the Answer is annexed hereto as Exhibit “2”).

6. The Clients’ non-responsiveness has rendered it increasingly and unreasonably difficult to represent their interests effectively.

7. As RH&E has been unable to get in contact with the Clients, this office has been unable to serve Initial Disclosures or respond to Plaintiff’s Initial Disclosures.

8. In addition, there is a substantial balance due to our office.

9. Due to the irreconcilable breakdown of the attorney-client relationship, this office can no longer provide adequate representation of the Clients in the above-titled matter.

10. An attorney may withdraw from representing a client if the client fails to cooperate in the representation or otherwise “renders it unreasonably difficult for the lawyer to carry out employment effectively.” Farmer v. Hyde Your Eyes Optical, Inc., 60 F. Supp. 3d 441, 445 (S.D.N.Y. 2014).

11. It is respectfully submitted that RH&E’s withdrawal as counsel will not result in prejudice to any party in the above-titled matter, as discovery has just begun with Plaintiff serving demands on or about July 2, 2018 and no preliminary conference scheduled yet.

12. Accordingly, your affirmant respectfully requests that this Court grant an Order

relieving this firm as counsel for Defendants, Dawn M. Hershko, individually and d/b/a Brickhouse Food & Drink, Itzhak Hershko, individually and d/b/a Brickhouse Food & Drink, and Brickhouse Food LLC d/b/a Brickhouse Food & Drink.

13. Additionally, it is respectfully requested that, all proceedings in this action be stayed for a period of not less than thirty (30) days from entry of the Order sought herein to allow the Clients time to retain substitute counsel (or appear *pro se*).

14. No prior application for the relief sought herein has been made.

WHEREFORE, for the reasons set forth herein, it is respectfully requested that the Court issue an Order permitting Rogers, Habas & Eisen, P.C. formerly known as Rogers, Habas, Verrilli & Eisen, P.C. to withdraw and be relieved as attorneys for Defendants, Dawn M. Hershko, individually and d/b/a Brickhouse Food & Drink, Itzhak Hershko, individually and d/b/a Brickhouse Food & Drink, and Brickhouse Food LLC d/b/a Brickhouse Food & Drink and granting such other and further relief as the Court deems just, proper and equitable.

Dated: Orangeburg, New York  
July 19, 2018

  
Eric T. Koffe, Esq.